

AMENDED IN SENATE APRIL 5, 2010

SENATE BILL

No. 985

Introduced by Senator ~~Hollingsworth~~ Dutton

February 8, 2010

~~An act to amend Section 218 of the Public Utilities Code, relating to public utilities. An act to add Sections 17053.13 and 23623.2 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 985, as amended, ~~Hollingsworth Dutton~~. ~~Electrical corporations. Income tax credits: education and training.~~

The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws.

This bill would, for each taxable year beginning on or after January 1, 2010, allow a credit under both laws in an amount equal to 50% of the amount of costs paid or incurred in connection with additional education and training for purposes of career advancement or retention, as specified.

This bill would take effect immediately as a tax levy.

~~Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, as defined.~~

~~This bill would make a technical, nonsubstantive change to the definition of an electrical corporation.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. This act shall be known and may be cited as the*
2 *Back to School Tax Credit.*

3 *SEC. 2. Section 17053.13 is added to the Revenue and Taxation*
4 *Code, to read:*

5 *17053.13. (a) There shall be allowed as a credit against the*
6 *“net tax,” as defined in Section 17039, an amount equal to 50*
7 *percent of the costs paid or incurred by the taxpayer during the*
8 *taxable year for education and training.*

9 *(b) For purposes of this section “education and training” means*
10 *both of the following:*

11 *(1) Education or training provided to the taxpayer’s employees*
12 *to maintain or improve a skill required for the taxpayer’s trade*
13 *or business.*

14 *(2) Education and training provided to the taxpayer in order*
15 *to comply with the express requirements imposed by the taxpayer’s*
16 *employer or by laws or regulations as a condition of the taxpayer’s*
17 *retention of an established employment relationship, status, or*
18 *rate of compensation.*

19 *(c) In the case where the credit allowed by this section exceeds*
20 *the “net tax,” the excess may be carried over to reduce the “net*
21 *tax” in the following year, and succeeding years if necessary, until*
22 *the credit is exhausted.*

23 *(d) No deduction shall be allowed to a taxpayer for the amount*
24 *of qualified expenses for which a credit is allowed to that taxpayer*
25 *under this section.*

26 *SEC. 3. Section 23623.2 is added to the Revenue and Taxation*
27 *Code, to read:*

28 *23623.2. (a) There shall be allowed as a credit against the*
29 *“tax,” as defined in Section 23036, an amount equal to 50 percent*
30 *of the costs paid or incurred by the taxpayer during the taxable*
31 *year for education and training.*

32 *(b) For purposes of this section “education and training” means*
33 *both of the following:*

34 *(1) Education or training provided to the taxpayer’s employees*
35 *to maintain or improve a skill required for the taxpayer’s trade*
36 *or business.*

37 *(2) Education and training provided to the taxpayer in order*
38 *to comply with the express requirements imposed by the taxpayer’s*

1 *employer or by laws or regulations as a condition of the taxpayer's*
2 *retention of an established employment relationship, status, or*
3 *rate of compensation.*

4 *(c) In the case where the credit allowed by this section exceeds*
5 *the "tax," the excess may be carried over to reduce the "tax" in*
6 *the following year, and succeeding years if necessary, until the*
7 *credit is exhausted.*

8 *(d) No deduction shall be allowed to a taxpayer for the amount*
9 *of qualified expenses for which a credit is allowed to that taxpayer*
10 *under this section.*

11 *SEC. 4. This act provides for a tax levy within the meaning of*
12 *Article IV of the Constitution and shall go into immediate effect.*

13 ~~SECTION 1. Section 218 of the Public Utilities Code is~~
14 ~~amended to read:~~

15 ~~218. (a) "Electrical corporation" includes every corporation~~
16 ~~or person owning, controlling, operating, or managing any electric~~
17 ~~plant for compensation within the state, except where electricity~~
18 ~~is generated on or distributed by the producer through private~~
19 ~~property solely for its own use or the use of its tenants and not for~~
20 ~~sale or transmission to others.~~

21 ~~(b) "Electrical corporation" does not include a corporation or~~
22 ~~person employing cogeneration technology or producing power~~
23 ~~from other than a conventional power source for the generation of~~
24 ~~electricity solely for any one or more of the following purposes:~~

25 ~~(1) Its own use or the use of its tenants.~~

26 ~~(2) The use of or sale to not more than two other corporations~~
27 ~~or persons solely for use on the real property on which the~~
28 ~~electricity is generated or on real property immediately adjacent~~
29 ~~thereto, unless there is an intervening public street constituting the~~
30 ~~boundary between the real property on which the electricity is~~
31 ~~generated and the immediately adjacent property and one or more~~
32 ~~of the following applies:~~

33 ~~(A) The real property on which the electricity is generated and~~
34 ~~the immediately adjacent real property is not under common~~
35 ~~ownership or control, or that common ownership or control was~~
36 ~~gained solely for purposes of sale of the electricity so generated~~
37 ~~and not for other business purposes.~~

38 ~~(B) The useful thermal output of the facility generating the~~
39 ~~electricity is not used on the immediately adjacent property for~~
40 ~~petroleum production or refining.~~

1 ~~(C) The electricity furnished to the immediately adjacent~~
2 ~~property is not utilized by a subsidiary or affiliate of the corporation~~
3 ~~or person generating the electricity.~~

4 ~~(3) Sale or transmission to an electrical corporation or state or~~
5 ~~local public agency, but not for sale or transmission to others,~~
6 ~~unless the corporation or person is otherwise an electrical~~
7 ~~corporation.~~

8 ~~(e) “Electrical corporation” does not include a corporation or~~
9 ~~person employing landfill gas technology for the generation of~~
10 ~~electricity for any one or more of the following purposes:~~

11 ~~(1) Its own use or the use of not more than two of its tenants~~
12 ~~located on the real property on which the electricity is generated.~~

13 ~~(2) The use of or sale to not more than two other corporations~~
14 ~~or persons solely for use on the real property on which the~~
15 ~~electricity is generated.~~

16 ~~(3) Sale or transmission to an electrical corporation or state or~~
17 ~~local public agency.~~

18 ~~(d) “Electrical corporation” does not include a corporation or~~
19 ~~person employing digester gas technology for the generation of~~
20 ~~electricity for any one or more of the following purposes:~~

21 ~~(1) Its own use or the use of not more than two of its tenants~~
22 ~~located on the real property on which the electricity is generated.~~

23 ~~(2) The use of or sale to not more than two other corporations~~
24 ~~or persons solely for use on the real property on which the~~
25 ~~electricity is generated.~~

26 ~~(3) Sale or transmission to an electrical corporation or state or~~
27 ~~local public agency, if the sale or transmission of the electricity~~
28 ~~service to a retail customer is provided through the transmission~~
29 ~~system of the existing local publicly owned electric utility or~~
30 ~~electrical corporation of that retail customer.~~

31 ~~(e) “Electrical corporation” does not include an independent~~
32 ~~solar energy producer, as defined in Article 3 (commencing with~~
33 ~~Section 2868) of Chapter 9 of Part 2.~~

34 ~~(f) The amendments made to this section at the 1987 portion of~~
35 ~~the 1987=88 Regular Session of the Legislature do not apply to~~
36 ~~any corporation or person employing cogeneration technology or~~
37 ~~producing power from other than a conventional power source for~~
38 ~~the generation of electricity that physically produced electricity~~
39 ~~prior to January 1, 1989, and furnished that electricity to~~

1 immediately adjacent real property for use thereon prior to January
2 1, 1989.

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